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Legal Tech's Predictions for 2019 in E-Discovery

The discovery process will continue to evolve next year, experts say, with an increased focus on analytics, privacy and more.

By Zach Warren | December 19, 2018

Many now consider e-discovery to be a mature market, but that doesn't mean the pace of innovation is necessarily slowing down. On the contrary, 2018 saw the adoption of new technologies like beginning-of-EDRM analytics at a wider scale, a focus on expanding e-discovery technology into adjacent spaces like information governance, and the acceptance of e-discovery lexicon into the wider legal community.

Looking ahead to 2019, Legaltech News asked a number of e-discovery attorneys and experts what they see as coming next. The expectations vary widely, from an increased use of data analytics, to a focus on privacy and security, to active learning

and proportionality being engaged earlier as part of the process. Below is their full thoughts, organized by last names in alphabetical order.

For 2019 predictions on cybersecurity, [click here (https://www.law.com/legaltechnews/2018/12/18/legal-techs-predictions-for-2019-in-cybersecurity-and-privacy/)](https://www.law.com/legaltechnews/2018/12/18/legal-techs-predictions-for-2019-in-cybersecurity-and-privacy/). Tomorrow, LTN will publish the final set of predictions, on innovative technologies.

E-Discovery Predictions

Bobbi Basile, HBR Consulting: "Heretofore, the discovery industry has focused on reducing the volume of documents after collection and processing ('data minimization') the data. In 2019, the focus will shift to the gap between legal hold issuance and data collection. Earlier engagement with custodians—in a transparent, documented and substantiated way—to determine actual relevance will reduce custodians' hold, phasing and/or targeted collection efforts and may allow earlier release of some holds."

David Carns, Casepoint: "In 2019, firms and legal departments will look for new ways to exploit the power of analytics across the entire e-discovery workflow and across multiple matters to proactively control costs, budget more accurately, litigate more efficiently and generate better legal outcomes. This will put a premium on flexible platforms that can integrate diverse applications and technologies like machine learning, predictive modeling and data visualization to quickly sort through large bodies of complex information. Lawyers will use these tools to make better strategic decisions earlier in litigation, and legal executives will use them to make dramatic improvements to workflows and operations."

Chris Chalstrom, Shepherd Data Services: "The reason businesses are going SaaS is simple: They can move into a perfect home and not worry about leaks or cracks in the foundation. Instead, they can walk into their environment, fire up their custom programs, and have nice toasty solutions for their clients. And, they can spend more time making better solutions for clients, instead of obsessing about details clients never see."

Kirk Chocholek, QDiscovery: "'Active learning' will be used as a supplemental tool to support traditional linear reviews. Case managers will run it in the background and use it to prioritize documents for batching or to QC the results of a linear review. This will be the first step in the adoption of active learning. As people become more familiar with it and its value is proven, it will eventually become the default."

Brad Harris, Zapproved: "Proportionality will reign supreme in meet-and-confer discussions, driven by a never-ending escalation of costs associated with traditional approaches to discovery. Successful litigation teams will rely on solid legal hold practices and refined early case assessment to confidently limit scope for both preservation and discovery, with new tools emerging for corporate legal teams to manage control cost and mitigate risk."

Janice Hollman, Relativity: "As law firms and corporations meet the need to create high-caliber, cross-functional teams, the opportunity for job growth and promotion for tech-savvy legal professionals will only grow. In 2019, we'll continue to see more paralegals and litigation support professionals getting certified—along with increased demand for tech-trained paralegals and lawyers."

Maureen O'Neill, Consilio: "2019 will be a tipping point for the protection of personal data privacy in legal discovery. We're already seeing some impact from Europe's GDPR, as litigants realize that discovery in their U.S. matters may include

EU personal data. But now every state has a data breach regulation, California has passed sweeping privacy legislation, and we're seeing a groundswell of support for a comprehensive federal privacy law—among industry leaders as well as regulators. Going forward, lawyers and their clients will be forced to adjust their e-discovery strategies and workflows to incorporate personal data privacy protection."

Anthony Petruzzi, Adrienne Kirshner and Stephanie Rzepka, Tucker Ellis: "We expect to see the threat of ESI platform data breaches move to the forefront in 2019. ESI platforms offer sophisticated hackers means, motive, and opportunity because the platforms store concentrated sensitive information that must be accessible from multiple points and devices. Furthermore, the risk of a breach heightens during transfers, but the discovery process necessitates that ESI be transferred from the proprietor to an ESI vendor and then legal counsel. We predict that law firms and vendors will turn their attention to ensuring that they are not the weak link in this chain."

Bill Piwonka, Exterro: "E-Discovery technology vendors are going to embrace Microsoft Office 365's capabilities. Microsoft has had great success driving the adoption of Office 365, and while they continue to add e-discovery features into their offering, traditional e-discovery vendors will embrace Office 365 to deliver new, compelling solutions that complement Microsoft Office's functionality and help legal professionals get to the facts of a matter more quickly, less expensively, and defensibly."

Michael Swarz, Veritone: "2019 will be the year demand for translation of any ESI file—text, audio and video—will balloon to meet increasingly globalized e-discovery & compliance requirements. Firms will look for robust translation options, whether machine or human, to translate international files into the language of their choice—by location, accent and dataset—to win their case."

Lon Troyer, H5: "The legal realm isn't exactly known for its speedy embrace of technology-driven solutions in e-discovery, but the growing cultural acceptance of AI and data analytics in everyday life is bound to push the needle forward. The variety and proliferation of analytics tools and expertise available to find critical information in large datasets more quickly and efficiently will drive forward-thinking lawyers and their clients to pursue e-discovery as a targeted fact-finding exercise, rather than a massive manual review effort. Look for more collaboration among lawyers and search experts, especially in high stakes practice areas such as white collar and antitrust, cybersecurity, and investigations."

James Whittington, GravityStack: "The introduction of a mandatory two-year disclosure pilot scheme in the UK Business and Property Courts from January 2019 will produce significant change that will require parties to conduct e-discovery at a much earlier stage. Parties must complete a 'Disclosure Review Document' that includes agreement on the use of analytics and TAR. The disclosure reform aims to reduce the cost, scope and complexity of e-discovery."